

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**OMAR COPELAND,**

**Plaintiff,**

**v.**

**CITY OF PHILADELPHIA, et al.,**

**Defendants.**

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**Civil Action  
No. 15-5012**

**ORDER**

And now, this \_\_\_\_\_ day of \_\_\_\_\_ 2017, upon consideration of Plaintiff's Motion to Depose and Defendants' Response, it is hereby **ORDERED and DECREED** that said Motion is **DENIED**.

**BY THE COURT:**

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**BEETLESTONE, J.**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**OMAR COPELAND**

**Plaintiff,**

**v.**

**OFFICER SEAN MCCALLISTER, et al.,  
Defendants.**

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**Civil Action  
No. 15-5012**

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO DEPOSE DEFENDANTS**

On February 21, 2017, Plaintiff filed a motion to depose Defendants, Police Officers Mammola and McCallister, Detective Pearson and former Commissioner Ramsey. *See* ECF 61. Plaintiff states that he does not have the financial means or ability to depose Defendants, as he is representing himself in this matter and is presently incarcerated. *Id.* He argues that he should be able to depose Defendants via video conference when defense counsel has scheduled his deposition. *Id.*

Pursuant to Fed. R. Civ. P. 37(a)(1): “On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that *the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.*” Fed. R. Civ. P. 37(a)(1) (emphasis added). Plaintiff has not yet attempted to communicate with defense counsel regarding setting up depositions of her clients. Defendants do not oppose Plaintiff’s request to depose them, and counsel will produce her clients for depositions as required under

Federal Rule of Civil Procedure 30, at a given date and time provided in a deposition notice.<sup>1</sup> Accordingly, a motion to the court is not the proper channel to coordinate discovery between the parties at this juncture.

Pursuant to Fed. R. Civ. P. 30(b)(5)(A): “Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28.” Rule 28(a)(1)(A)(B) defines an officer as: “(A) an officer authorized to administer oaths either by federal law or by the law in the place of examination; or (B) a person appointed by the court where the action is pending to administer oaths and take testimony.” Fed. R. Civ. P. 28(a)(1)(A)(B). Rule 30(b)(3)(A) governs the method of recording depositions and states, in pertinent part, that “[t]he noticing party bears the recording costs.” Fed. R. Civ. P. 30(b)(3)(A).

Should Plaintiff wish to depose Defendants, Defendants respectfully request a representation from Plaintiff that he will provide: deposition notices for those he wishes to depose, an officer as defined in Rule 28, as well as a facility and a means of communicating during the deposition. Pursuant to Rule 30(b)(3)(A), Plaintiff must bear the burden of the recording costs associated with depositions he seeks to take.

Respectfully submitted,

Date: March 2, 2017

/s/ Shannon Zabel  
Shannon Zabel  
Assistant City Solicitor  
Pa. Attorney ID No. 321222  
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<sup>1</sup> However, Defendants, the City of Philadelphia and former Commissioner Charles Ramsey, have filed a Motion for a Protective Order to protect former Commissioner Ramsey from being produced to testify at a deposition or trial. *See* ECF 62.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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<b>OMAR COPELAND,</b>	:	
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<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>Civil Action</b>
	:	<b>No. 15-5012</b>
	:	
<b>CITY OF PHILADELPHIA, et al.,</b>	:	
<b>Defendants.</b>	:	

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, the foregoing Response to Plaintiff's Motion to Depose Defendants was filed via the Court's electronic filing system and is available for downloading. I also certify that a copy of the Response has been served upon the Plaintiff by certified mail, postage prepaid, as follows:

Omar Copeland  
LK6830  
SCI-Huntingdon  
1100 Pike Street  
Huntingdon, PA 16654-1112

Respectfully submitted,

/s/ Shannon Zabel  
Shannon Zabel  
Assistant City Solicitor  
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Dated: March 2, 2017